

**MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**  
**WEDNESDAY, SEPTEMBER 14, 2016**

**I. CALL TO ORDER**

- Mayor Miller called the meeting to order at 6:00PM. Council members in attendance: West, Fulkerson, Miller, Baker. **Tissot was absent.**
- City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams, City Planner Trever Parker.

**II. PLEDGE OF ALLEGIANCE**

**III. ADJOURNMENT TO CLOSED SESSION – *No closed session.***

**IV. RECONVENE TO OPEN SESSION**

**V. APPROVAL OF AGENDA**

*Motion (Fulkerson/Baker) to approve the agenda. Passed 4-0.*

**VI. APPROVAL OF MINUTES – *August 10, 2016 cc, August 23, 2016 scc***

*Motion (Fulkerson/Baker) to approve the minutes as written. Passed 4-0.*

**VII. COUNCIL MEMBER REPORTS**

**Fulkerson:** RREDC update, Coastal National Monument lobbying effort, and asked that the City consider banning drones and fireworks within city limits.

**Miller:** RCEA community choice aggregate program, now referred to as Community Choice Energy program. Pewetole Island Fire status, and Coastal National Monument/BLM signage survey update.

**VIII. STAFF REPORTS:**

City Manager Berman submitted a report to the City Council at the meeting highlighting various accomplishments and project status for the month; *Stormwater Grant Update, Clean Beaches Septic Grant Update, Water Plant Assessment, etc.*

**IX. ITEMS FROM THE FLOOR:**

**Tom Odom – Trinidad**

Requested a copy of the city trail maintenance schedule to find out when the Wagner Street Trail would be cleared. Also requested that the Town Hall entry doors be reviewed for ADA accessibility.

**Kathleen Lake – Trinidad**

Cited numerous complaints/grievances with the City, including, 1) Fish Festival traffic complaint with regard to impact to Ocean Avenue, 2) Complaint about not getting responses to numerous complaints filed with the City, 3) Complaint about a wedding ceremony witnessed at beach near Trinidad Head, and 4) Compliant about the definition of a single family dwelling in the VDU/STR Ordinance.

**Jack Nounan – Trinidad**

Forest Defender/Klamath Crisis Defender. Thanked friends for attending tonight's meeting in support of climate change activism and awareness related to Green Diamond timber harvest practices.

**Dorothy Cox – Trinidad**

Requested notification of neighboring VDU's that are not active, as well as the active ones..

**Ellen Taylor – Petrolia**

Echoed Jack Nounan's comments. Climate change is real. Timber harvesting should not be allowed anymore. No clearcutting.

**Steve Ruth – Trinidad**

Concerned with no response from the City regarding public view protection on Edwards Street. Asked that this issue be placed on the first Council meeting agenda following the November election.

**Eva Bisto** – Arcata/Trinidad Forest Lover

Preserve the redwoods. Cited article regarding redwoods and their relationship to offsetting global warming. Sequestering carbon is the answer to climate change. Hope Trinidad pursues true green resources.

**Pat Morales** – Trinidad

Regarding TVFD agenda item, where are the plans? Has the public had the opportunity to see them? This item should be delayed till the plans are made public.

**Walt McNeill** – Redding Attorney

Representing a number of VDU's and a few personal clients. Announced that his office submitted damage claims to the City today for 2 residents that were required to cease operation of legal, non-conforming vacation rentals last year as a result of the VDU ordinance. Always open to discussing settlement. Would hate to have to see this issue litigated.

**Alan Grau** – Trinidad

Complaint about the City Planner.

**Jim Cuthbertson** – Trinidad

The City approved a complaint process a few years ago. People should be using it.

**Gork Burns** – Arcata/Trinidad Forest Lover

Read a poem written about trees and climate change.

#### **X. CONSENT AGENDA**

1. Financial Status Reports for July 2016.
2. Proclamation in Recognition of LGBT Awareness Month, September 2016.
3. Declaration of City Council Nominees for Public Office for the November 2016 Election.
4. Approve Amendment to Contract for Firehouse Expansion Plans
5. Approve Proposal for Luffenholtz Creek Flow Monitoring

*Motion (Baker/West) to approve the consent agenda as written. **Passed 4-0.***

#### **XI. DISCUSSION/ACTION AGENDA:**

1. Presentation from the County of Humboldt regarding Ballot Measure S, the Local Commercial Marijuana Cultivation Tax.  
County of Humboldt CAO **Amy Nielsen** introduced and presented County Measure S to be placed on the November ballot, requiring a simple majority vote to pass.

Council comments included:

**Baker:** Will this initiative be pending the recreational statewide initiative outcome? **Nielsen** responded, confirming that the measure covers both commercial medicinal and recreational growers and will become effective January 01, 2017.

*There were no written comments submitted by the public regarding this item.*

*No decision was made. Presentation item only.*

2. Van Wycke Trail Project - Update and Authorize Initial GHD Scope  
Councilmember **Fulkerson** recused herself from the discussion due to the conflict she has as an adjacent property owner to the project area.

City Manager Berman explained that the Van Wycke Trail needs significant work, most notably where the underlying bluff is steadily failing and eroding the trail along with adjoining properties. The City has supported small scale repairs, funded feasibility and engineering studies and geological assessments, and sought external funding over many years. In early 2016 the City received notice that our second attempt at securing a Department of Transportation (Caltrans) Active Transportation Program grant was successful in

the amount of \$714,000. However it was only last month (August 2016) that we were allocated an initial \$35,000 allowing us to start work under the grant.

Staff will make a brief presentation outlining the current plans and schedule for this project. Staff and the Contract City Engineer, GHD are planning an open house Town Hall meeting to facilitate community input and discussion, and will return to the Council for discussion after that step.

The studies completed to date support a retaining wall approach to stabilize the failing section of trail. This is what was proposed in the grant. A possible alternative approach is a pedestrian bridge spanning the failing section, but this has not been explored in detail yet.

In order to get started, staff is recommending the Council authorize an initial Scope of Services with GHD, Inc. for the project, not to exceed \$10,000. The cost for the services will be reimbursed by the Caltrans Active Transportation Program funding.

**Mayor Miller** explained that this is a very general presentation, and that the Council is being asked for initial funds to explore design, function, etc. of the proposed improvements. Many further opportunities for public input will be available in the future as the concepts develop.

Public comment included:

**Pat Morales** – Trinidad

There was an emergency agenda item in May 2015 for funding the Van Wycke Trail project. There was a summary provided at that time, but no detailed plans. Why weren't the plans included in tonight's meeting packet? Last minute rushing is not an excuse. Key information was not included, and I believe this could be a violation of the Brown Act.

**Pat Morales** – Trinidad (given permission by the Mayor to read a letter on behalf of another resident) Questioned the repair concepts, desires for city easements, and opposed retaining wall construction. Supports the bridge option, but no concrete. A 4' wide trail is plenty.

**Jim Cuthbertson** – Trinidad

Engineers will take advantage of every dime they can get. A bridge won't fix the problem. Fix the bluff.

**Sungnome Madrone** – Trinidad Area

I built the most recent retaining wall on the trail. It was designed to move and fail with bluff movement. The City has only spent approximately \$12,000 in the last 30 years or so on that trail. It can be modified and sufficient without an 8' bike path.

**Steve Ruth** – Trinidad

Vegetation can have both stabilizing and destabilizing affects on the bluff. The Van Wycke trail is one of the most important trails in the system and should be preserved. My neighbor leverages clearing obstructing trees in our viewshed with granting easement over her property for this trail.

**Kelly Saunders** – Trinidad

What are the implications for the Tsurai Ancestral Society? How will improvements to this trail impact the trail leading down to the marina at the foot of Galindo? I hope this will be part of the conversation.

**Kathleen Lake** – Trinidad

Horrified with the thought of an 8' wide concrete trail and bike path. The project should be modified and constructed appropriately.

**Julie Fulkerson** – Trinidad

This is not my trail. The concepts need work. Shocked (and worried) to hear of an 8' wide path. My discussions are about the future, not about Caltrans design standards. Looking forward to future discussions on this topic.

**Dorothy Cox** – Trinidad

What is happening with the Lighthouse Trail? It is a major liability.

Written comments submitted included:

**Sarah Lindgren-Akana:** Objected to the proposed project in 2015, and requested an update and more info at this time.

Council comments included:

**West:** I can't support an 8' wide concrete trail. I can move forward with improvements, as long as the plans can be modified.

**Baker:** I'd like to see part of the \$10,000 go to an objective, facilitated design meeting. Can we spend the money and get reimbursed if our agreed to proceed design isn't approved by Caltrans? I'm ok with authorizing the manager to move forward under this condition and with community support.

*Motion (Baker/West) to receive presentation and authorize City Manager to sign a scope of services with GHD, Inc. to start work on the Van Wycke Trail Project. **Passed 3-0. (Fulkerson recused, Tissot absent)***

3. Update and Discussion on Wagner St. Trail and related Judgments and Settlements.

City Manager Berman explained the long history of disputes regarding the Wagner Street Trail, especially with regard to the access to the trail over private property off of Wagner Street. Litigation expenses related to this issue have been significant for the City over the years

In late 2014 the City requested that the Coastal Commission take the lead in evaluating and addressing claims that Coastal Act enforcement was needed regarding the Wagner Street Trail. Coastal Commission staff have indicated that they agree that there are problems, and have been actively working with John Frame to address those issues. The bollard posts in the trail entrance have been removed, but other issues have not been resolved. At last discussion, the Commission staff was hoping to come to agreement with Mr. Frame, but was considering recommending enforcement action if an agreement was not reached. City Staff are awaiting a response from Commission staff and hope to have a current update at our meeting. City staff have consistently requested engagement and participation in whatever resolution is developed, as the City will likely be involved in implementing whatever is decided.

The City, Mr. Frame, and the Coastal Commission are parties to a 2005 settlement (as well as earlier court judgments) that require specific actions and conditions. The 2005 Settlement puts specific requirements on all parties. The City has received regular complaints that the agreements are not being honored in full by either the City or Mr. Frame. A 2008 City Manager memo summarizes the overall situation as well as the 2005 and prior agreements.

Current Notes on City Responsibilities:

**Vegetation:** The City has not been doing any vegetation maintenance south of the trail in recent years, and it has grown up to impact views from portions of the trail. The City has recently received support from the Coastal Conservancy and the Tsurai Ancestral Society to go ahead with vegetation trimming as described in the 2005 Settlement. Staff anticipates hiring the CCC, or tribal CCC, to accomplish that work.

**Signage:** City staff would like to implement limited additional signage marking the Wagner Street access to the trail, consistent with the other secondary trails to Old Home Beach as called for in the settlement agreement. The 4x4 wooden post trail markers used elsewhere in the City are not in place for the Wagner Street trail. Signage, both City and private, is a topic of dispute that the Coastal Commission and Mr. Frame are discussing, and staff awaits that resolution before proceeding.

City Manager Berman recommended not taking any immediate action as Mr. Cuthbertson suggests. He recommended, however, to wait for Coastal Commission to provide resolution on issues they're working on first.

Public comment included:

**Jim Cuthbertson** – Trinidad

I'm tired of this situation and want action. The City should be maintaining the trail and the directional signs should be installed. Provided a brief history on the lawsuits and settlement agreements.

**Steve Ruth** – Trinidad

The Coastal Commission's mission is to maintain and preserve coastal access. My complaint regarding vegetation and views is the same as Mr. Cuthbertson's complaint regarding public access.

**John Frame** – Trinidad

I suggest the Council read the 1994 Stipulated Judgement. There were no sign posts mentioned. I would also warn the Council that cutting along the Wagner Street Trail will require encroaching on the Tsurai Study Area. That will require consultation with the Tsurai Ancestral Society.

Written comments submitted included:

**Sarah Lindgren-Akana:** Objected to vegetation cutting along TSA due to Management Plan negotiations and concerns.

Council comment included:

**Fulkerson:** Is there really a problem? Can we trim the vegetation to improve the vistas from the trail?

**City Attorney Stunich** asked to look at the documents before advising, but for now suggested the Council accept the City Manager's recommendations.

**Baker:** Not interested in initiating any further litigation issues. Asked City Manager to investigate the matter further.

*Motion (West/Baker) to 1) follow up with vegetation cutting/maintenance schedules, 2) trail markers and signage, and 3) Coastal Commission progress and consultation and return with an update to a future meeting. Passed 4-0.*

4. Discussion/Decision (Continued) regarding Amending Ordinance 2014-01, the City of Trinidad Vacation Dwelling Unit (VDU) Ordinance.

City Manager Berman explained that the Council has provided direction on most of the key issues to be addressed in the planned revised Short Term Rental Ordinance. At the last meeting the Council appointed Mayor Miller and Councilmember Baker to meet as an ad-hoc committee to continue work on the detailed language. Their efforts, with staff assistance, are reflected in the attached current draft Ordinance. Legal review is ongoing. The remaining issues are highlighted below.

**Schedule and Process for Adoption**

Ordinances require two public Council meetings for adoption once the language is final: introduction and first reading, followed by a second reading and adoption at a regular meeting at least five days later.

Staff hopes to get sufficient direction at the September meeting to finalize the draft Ordinance, allow for final legal review, and conduct the first reading at a meeting on or before the October 12<sup>th</sup> meeting. That would result in the second reading and adoption opportunity in October as well. The ordinance will then be submitted to the Coastal Commission for their review before taking effect. If that process results in amendments, the amended version will need to again be adopted by the Council.

**Remaining Issues:**

**Preamble and Findings:** Our City Attorney is actively developing language for this. I expect a revised version by the time of our meeting.

**Limiting any one property owner to a single STR License:** The Council has indicated support for this, but it was not explicit if the Council wanted this requirement to apply only to new licenses, or to apply it to existing licenses. In the latter case, two current owners would be unable to renew all but one of their licenses. There are currently two owners this would affect, one with three homes with licenses and one with two homes with licenses.

Our City Attorney has been clear that changes which result in the loss of existing licenses are more likely to lead us into legal challenges, and that if challenged, the City's justification for new regulations has to meet a higher standard when we are affecting existing operations than where we are setting standards for future

licenses. Staff therefore recommends that this requirement apply to new licenses, but not pre-existing licenses, similar to the buffer distance and the cap.

Staff also recommends (as reflected in the current Ordinance) that Homeshare STRs not be considered in this requirement, so that a property owner could operate a Homeshare STR in their own home, and have a separate 'regular' STR license at another property. This is consistent with the idea that the Homeshare option is distinct from typical un-hosted STRs.

**Minimum Activity Requirement:** The Council and Planning Commission have indicated support for a 60 night minimum requirement per year. The Committee discussed the potential downside of this requirement being impractical for long term residents who primarily reside in their home, but do operate an STR on a limited basis. These people do not qualify as a Homeshare because they rent the entire house while they are away, but not more than 60 nights a year.

There are a couple of ways this could be addressed if desired.

- i. A reduced minimum activity requirement where the property is also the primary residence of the owner. A 20 night minimum was discussed by the Committee.
- ii. Applying this to new licenses, and not 'pre-existing' licenses. This would allow the few existing residents in this situation to continue. But would not allow a small scale (< 60 nights) for anyone new, unless they were a Homeshare.
- iii. Pacific Grove takes a different approach of applying separate rules to STRs that operate on a small scale, i.e. less than 20 nights a year. Similar to what we are proposing for 'Homeshare' STRs. So for instance STRs that operate less than X nights a year (20?) could be exempt from certain provisions of the ordinance, like the minimum activity requirement. This path would create effectively three classes of STRs – Homeshares, limited use STRs, and 'regular' STRs, with different requirements for each.

If the Council wants to consider revising this, Staff lean towards the first option above, a lower minimum activity requirement for people in their own home. The third option would complicate things by creating three different 'classes' of STR licenses.

**Parking Issues:** The Committee considered whether it would be feasible to limit the total number of cars, similar to how we are limiting the number of guests. The reduction in occupancy and in total guests will help address parking issues. The Committee members may have more to share on this.

Staff's recommendation is that recurring parking problems be addressed on a case by case basis. If occupant and guest cars are consistently parking illegally, the City can limit occupancy down until the problem is resolved. If the City chooses at some point to consider a permit parking system, it would make it much easier to address this issue by limiting parking permits. As long as most of the streets are public parking, it is very difficult to proscribe who can use those parking places.

**Homeshare STRs:** Staff suggest that where the Ordinance provides that the Council shall set fees for STR licenses, it may need to be explicit that the fee structure may treat Homeshare STRs differently than 'regular' STRs. As noted above, the 'one STR license per owner' requirement may not be appropriate for Homeshare STRs.

**Violations and Fines:** The Committee supports setting fines for significant violations of the ordinance, to be levied against the license holder (owner) in the range of \$150 for a first offence and \$300 for subsequent offences, with the clock reset after a year without a significant violation.

Of course the entire Ordinance remains open for discussion. If the Council moves through the issues above quickly, time will be well spent working front to back through the Ordinance.

Council questions/opening comments:

**Miller:** Expressed concern regarding 1-VDU per parcel in light of the damage claims submitted by Attorney McNeill earlier today.

Public comment included:

**Kathleen Lake** – Trinidad

Read from a prepared statement, submitted as part of the meeting record. Appreciate enforcement amendments, but concerned about the draft preamble which she has not seen yet. Also concerned that the City Manager stated that nothing had been agreed to yet, but heard tonight that 95% of the ordinance is complete. I would not vote for a cap. It restricts others and is not fair. The City doesn't have the infrastructure to enforce the industry.

**Kathleen Lake** (permission to read a prepared statement submitted by resident Adora King)

Requested removal of vacation rentals on Wagner Street due to lack of parking and high occupancy.

**Alan Grau** – Trinidad

Don't rush or we'll be back doing this all over again. Made various comparisons between San Luis Obispo and Trinidad STR policies. Disappointed that the 100 foot buffer zone was shot down by the Council. The new proposal for no shared boundary between vacation rentals is disturbing.

**Tom Davies** – Trinidad

Defined "family". Why is the Council considering a change to the 1-VDU per parcel that is being challenged by a property owner? It was unanimously approved. Why hasn't it been given the same treatment as the Van Wycke trail discussion as proposed by Baker (objective, facilitated meeting)? This is unfair. People contributing and living here are having their rights taken away. What about those of us who reside here permanently but want to rent our homes for a few months each summer?

**Planner Trevor Parker** explained that the ordinance differentiates between homeshares and everything else. A resident leaving town for the summer is expected to rent a minimum of 60 days if they have a VDU license. You can, however, 1 time each year, rent for 30 or less days without a license (1 rental contract/year). Under that situation the owner must still pay occupancy tax.

**Patti Fleschner** – Trinidad

For clarification, the Van Wycke Trail is grant funded. We have a very capable Mayor, Council, and Staff that attend meetings and facilitate them quite well. Everyone has had numerous opportunities to speak. Why would we hire a facilitator?

**Steve Ruth** – Trinidad

I agree with the maximum rental nights if you have a STR license. Existing STR's should be grandfathered in.

**Walt McNeill** – Redding Attorney representing "PORT"

I've been coming to Trinidad for almost 25 years. Pre-existing non-conforming uses should be allowed, or grandfathered in before the current ordinance is approved. The City does not need this ordinance. It needs a robust nuisance abatement ordinance and better enforcement. Focus on complaints. The worst offender is the non-transferability clause. Homeowner is not defined. Why should there be a buffer, or contiguous STR's? That makes no sense? Imposing a lottery is irrational. Look at a workable nuisance ordinance that will help the town in general.

**Laura Scott** - Trinidad

Encourage the Council to ignore the PORT attorney. 1-VDU/parcel should be upheld. Resident property owners should not be ignored. Existing VDU owners should be given a specified timeline to comply. Homeshares should require resident onsite. Haste makes waste.

**Dorothy Cox** – Trinidad

Supports 1-VDU/parcel. It has made a big difference on Ocean Avenue. Also supports 1 VDU/owner.

Written correspondence included:

**Jonna Kitchen** – Trinidad

Written supports and concerns regarding proposed amendments.

**Susan Rotwein** – Trinidad

Written supports and concerns regarding proposed amendments.

Council comments included:

**Miller:** We are not currently discussing the preamble. However, it may be posted on the city website for review, as well as included in a future agenda packet for discussion.

5. Discussion/Decision regarding Second Reading of draft Ordinance 2016-02; Proposing an Extension of the  $\frac{3}{4}\%$  Sales Tax Increase to be implemented by the State Board of Equalization pending voter approval at the November 08, 2016 Election.

## **XII. ADJOURNMENT**

Meeting ended at 10:40pm.

**Submitted by:**

**Approved by:**

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**Gabriel Adams**  
City Clerk

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**Dwight Miller**  
Mayor